



Shapiro Arato & Isserles LLP

500 Fifth Avenue, 40th Floor  
New York, NY 10110  
tel: 212-257-4880  
fax: 212-202-6417

www.shapiroarato.com

Cynthia S. Arato  
carato@shapiroarato.com  
Direct: 212-257-4882

November 14, 2014

VIA EMAIL & FEDERAL EXPRESS

William S. Parks, Esq.  
Wyatt, Tarrant & Combs, LLP  
1715 Aaron Brenner Drive, Suite 800  
Memphis, TN 38120-4367  
bparks@wyattfirm.com

Mr. Paul Sebes  
Sebes & Van Gelderen Literary Agency  
Herengracht 162  
NL -1016 BP Amsterdam  
THE NETHERLANDS  
sebes@sebes.nl

**Re: *Three Early Stories***

Dear Sirs:

This firm is counsel to the J.D. Salinger Literary Trust (the "Trust"). The Trust is the owner of the intellectual property and moral rights to works authored by J.D. Salinger. We write regarding the improper efforts of the Devault-Graves Agency, and its agent Sebes & Van Gelderen Literary Agency, to exploit in foreign territories the Devault publication titled "Three Early Stories," containing three stories authored by Mr. Salinger and first published in the United States in the 1940s (the "Underlying Stories"). We wish to explicitly advise you that the contemplated exploitation by Devault with the assistance of Sebes would constitute infringement in foreign territories under the Berne Convention and/or moral rights.

Devault and Sebes are apparently seeking to exploit Three Early Stories in foreign territories under the erroneous view that the Underlying Stories are in the public domain *outside* the United States because they previously entered the public domain within the United States and were not previously published in other countries. For example, in a letter dated August 14, 2014 that Sebes apparently circulated abroad, Devault asserts that "Berne Convention standards permit foreign copyrights to arise *only* in certain works that had, in the past, a suitable and valid copyright within the originating country," and that "restoration of copyright is *only* permitted if foreign publication of the works at issue occurred within a specific country."

William S. Parks, Esq. and Mr. Paul Sebes  
November 14, 2014

Page 2


This analysis is fundamentally flawed. The publication of Three Early Stories in any non-U.S. country that is a member of the Berne Convention will infringe the Trust's intellectual property rights in the Underlying Stories. Specifically, under Berne member countries recognize copyright protection for any work that was first published in another member country, and such protection will persist for a minimum term of the life of the author plus 50 years, *regardless of whether the work entered the public domain in the country of first publication prior to the expiration of that term*. Thus, because the Underlying Stories were first published in the United States, and because the United States became a member of the Berne Convention in 1989, other Berne member countries recognize the Trust's intellectual property rights in the Underlying Stories for a minimum period of 50 years after J.D. Salinger's death in 2010, or until 2060. In most countries, however, that protection persists for 70 years after Mr. Salinger's death, or until 2080. This protection is in addition to any moral rights laws that also ban the publication of Three Early Stories.

If you have information that the publication of Three Early Stories would be authorized in any particular foreign country under its unique local laws (as apart from Devault's generalized, and we believe erroneous, Berne analysis), we would welcome and consider that information.

If not, however, we ask that you confirm to us in writing, no later than November 24, 2014, that Devault and Sebes will cease attempting to license the publication of Three Early Stories in foreign Berne-member countries and withdraw any purported authorization to do so that they may already have granted. If we do not hear from you by that date, the Trust will assume that Devault and Sebes intend to continue engaging in acts that constitute infringement of the Trust's intellectual property rights under foreign law. The Trust will not hesitate in this circumstance to avail itself of all legal recourse, including litigation against Devault and Sebes and any potential foreign publisher, that it deems necessary to protect those rights.

This letter is not a complete statement of the Trust's rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights, claims or remedies of the Trust in connection with this matter, all of which are expressly reserved.

Sincerely,

  
Cynthia S. Arato

cc: Mr. Matt Salinger